

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
The Pay Telephone Reclassification)	CC Docket No. 96-128
and Compensation Provisions of)	
The Telecommunications Act of 1996)	
)	
RBOC/GTE/SNET Payphone Coalition)	NSD File No. L-99-34
Petition for Clarification)	

REPLY COMMENTS OF WORLDCOM, INC.

February 25, 2004

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TABLE OF CONTENTS

I.	COMMENTING PARTIES AGREE THAT THE COMMISSION DID NOT INTEND FOR COMPLETING CARRIERS TO REPORT INCOMPLETE CALLS	1
II.	THE COMMISSION SHOULD RETAIN THE CLEAR LINES OF COMPENSATION LIABILITY IT HAS ESTABLISHED IN THE DATA RELIABILITY ORDER	2
III.	ALLOWING A RESPONSIBLE CORPORATE OFFICER TO CERTIFY THE ACCURACY OF A COMPENSATING CARRIER'S PAYMENTS IS NOT LEGALLY DIFFERENT THAN REQUIRING THE CHIEF FINANCIAL OFFICER TO MAKE THIS CERTIFICATION	5
IV.	CONCLUSION	6

WorldCom, Inc., d/b/a/ MCI, hereby submits its Reply to Comments filed in response to the Petitions for Reconsideration filed by American Public Communications Council (“APCC”) and the RBOC Payphone Coalition (“RPC”), Sprint, AT&T and QWEST, and the 1-800 American Free Trade Association (“AFTA”).¹

I. COMMENTING PARTIES AGREE THAT THE COMMISSION DID NOT INTEND FOR COMPLETING CARRIERS TO REPORT INCOMPLETE CALLS

In its Petition for Clarification, AT&T asked the Commission to clarify that Section 1310(a)(4)(i) pertains only to calls that complete on a Carrier’s network. AT&T argued that Section 64.1310(a)(4)(i) could be read to require Completing Carriers to report on calls sent to switch-based resellers (SBRs), a duty only imposed on Intermediate Carriers.² RPC, APCC, Sprint, and MCI all support the interpretation of Section 1310 put forward by AT&T. RPC, APCC, and Sprint identify the situation identified by AT&T as a responsibility of an Intermediate Carrier.³ MCI argued that the Commission clearly intended Completing Carriers only to report on completed calls, since Section 64.1310(a)(4)(ii) clarified Section 64.1310(a)(4)(i).⁴ RPC and APCC recognize the Commission did not intend Section 64.1310(a)(4)(i) to require a Completing Carrier to report on incomplete calls dialed towards toll-free and access code numbers on their networks, but go on to request the Commission to

¹ See Comments of the American Public Communications Council on Petitions for Reconsideration, (*APCC Comments*), Comments of RBOC Payphone Coalition’s Petition on Petitions for Reconsideration and Clarification (*RPC Comments*), Comments of AT&T Corp., and Opposition to RBOC and APCC Petitions for Reconsideration (*AT&T Comments*), Comments of Sprint Corporation on Petitions for Clarification or Reconsideration, (*Sprint Comments*), Comments of QWEST Communications International, Inc., in Support of Sprint Corporation’s Petition for Reconsideration (*QWEST Comments*), Reply Comments, 1-800 American Free Trade Association (*AFTA Comments*) CC Docket No. 96-128, File No. NSD-L-99-34, filed February 20, 2004.

² AT&T Petition for Clarification or, In the Alternative, Reconsideration (*AT&T Petition*), CC Docket No. 96-128, File No. NSD-L-99-34, filed December 8, 2003, at 3.

³ RPC Comments at 2; APCC Comments at 6, Sprint Comments at 20.

⁴ MCI Comments at 17.

impose this additional requirement in order to be able to better determine the accuracy of a Completing Carrier's report on the volume of completed calls.⁵ The Commission should reject APCC and RPC's request for additional data. RPC's Petition states that the Commission's approach is overly regulatory, but now sees the need for an even greater degree of regulation. The Commission has indeed gone to great lengths to ensure that PSPs receive accurate and reliable reports and payments. An important aspect of the *Data Reliability Order* is the requirement that Completing Carriers have systems and staff capable of resolving disputes.⁶ As Sprint points out, carriers' call tracking systems are not designed to track calls for which they do not receive answer supervision.⁷ It would impose a tremendous investment cost to make this change, and is unnecessary, given the requirement for reliable data standards and systems the Commission has now established.

II. THE COMMISSION SHOULD RETAIN THE CLEAR LINES OF COMPENSATION LIABILITY IT HAS ESTABLISHED IN THE DATA RELIABILITY ORDER

AT&T's Petition requested the Commission to rule that SBRs are not required to receive approval from payphone service providers when an SBR agrees to allow an IXC to act as a conduit and pay PSPs for all payphone calls sent to the SBR. AT&T argues that such a determination would improve administrative efficiency by removing the need for SBRs who have not had an independent entity attesting to the accuracy of its payphone compensation system from having to negotiate contracts with PSPs to compensate them on a basis other than

⁵ RPC Comments at 2; APCC Comments at 7.

⁶ Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Report and Order, (*Data Reliability Order*), CC Docket No. 96-128, rel. October 3, 2003, errata October 23, 2003.

⁷ Sprint Comments at 16.

per-call completion data.⁸ MCI and Sprint support AT&T's request on grounds of administrative efficiency.⁹ RPC and APCC purport to support AT&T's request, but only if the Commission shifts compensation liability to Intermediate Carriers.¹⁰

The Commission should reject this attempt to blur the clear lines of compensation responsibility it has taken great pains to establish in the *Data Reliability Order*. The heart of AT&T's request was to allow SBRs who have not been verified as having reliable call completion data, pursuant to Section 64.1320, to be able to compensate PSPs without having to establish a prior contractual agreement with them. By establishing such a safe harbor, the Commission could drastically reduce the need for individual negotiations between PSPs and this class of SBRs and facilitate the compensation prospects of PSPs. Shifting compensation liability to Intermediate Carriers would reduce their willingness to act as a conduit. Moreover, as pointed out by Sprint, imposing SBR compensation liability on Intermediate Carriers, under any conditions, would render the new audit, reporting and certification requirements completely redundant and unnecessary.¹¹ And imposing ultimate compensation liability on Intermediate Carriers, either if they act as a conduit, or as a default if SBRs fail to pass an independent audit, would remove the incentive for SBRs to ever directly compensate PSPs, something the Commission has consistently held out as its ideal. The Commission's must therefore retain its decision to establish unconditional default compensation liability on SBRs, coupled with its extensive reporting, auditing, and identification requirements.

⁸ AT&T Petition at 5.

⁹ MCI Comments at 10; Sprint Comments at .23.

¹⁰ RPC Comments at 3; APCC Comments at 4.

¹¹ Sprint Comments at 11.

Just as RPC and APCC try to blur the lines of compensation responsibility, so too does the 1-800 American Free Trade Association (“AFTA”) through several requests. The Commission should reject AFTA’s requests, not only because they too would blur the lines of clear compensation responsibility, but also because they constitute a late-filed Petition for Reconsideration. AFTA first asks for PSPs to be required to register contact information with the Commission in order to allow SBRs who wish to directly compensate PSPs based on their per-call tracking systems to know where to file their audit reports.¹² However, an important aspect of having a reliable compensation system is being able to identify the PSPs to whom these reports must be delivered.¹³ AFTA’s members should be able to rely upon either PSP ANI lists provided to them each quarter by local exchange companies, or if these are not complete or validated, purchase validated lists from established clearinghouses.

AFTA next asks for its members to be relieved of compensation responsibility until payments rise above some threshold level.¹⁴ AFTA claims its members are likely to be completing few calls from thousands of PSPs, yet it seems just as likely that small SBRs may have relatively small total payments to a small subset of total PSPs. In this case, payments to PSPs, who may also be small, could be significant. One advantage of using a clearinghouse is its ability to aggregate payments from many carriers to each PSP, thereby reducing the number of mailings per carrier to each PSP. Small SBRs should be able to take advantage of this aggregation economy by using a reliable clearinghouse.

¹² AFTA Comments at 5.

¹³ See Section 64.1320(c)(9).

¹⁴ AFTA Comments at 6.

AFTA's members should also be able to take advantage of this aggregation economy by having the clearinghouse distribute a certified statement from an SBR's CFO to each PSP.

AFTA asks the Commission to allow a CFO to file a company's certification statement with the Commission, rather than with each PSP, if the Completing Carrier uses a clearinghouse.¹⁵ But if the clearinghouse is already making a quarterly payment to each PSP, the marginal cost of including a CFO certification should be very small.

AFTA next asks the Commission to relieve SBRs of liability if they rely upon "the good faith services of clearinghouses."¹⁶ AFTA argues that clearinghouses may not have accurate PSP identification information. However, if a clearinghouse makes payments and reports on behalf of a Completing Carrier, the Completing Carrier is responsible for ascertaining that the clearinghouse has been audited pursuant to Section 64.1320 of the Commission's rules and found to be reliable for whatever portion of the compensation process it handles on behalf of a Completing Carrier.

III. ALLOWING A RESPONSIBLE CORPORATE OFFICER TO CERTIFY THE ACCURACY OF A COMPENSATING CARRIER'S PAYMENTS IS NOT LEGALLY DIFFERENT THAN REQUIRING THE CHIEF FINANCIAL OFFICER TO MAKE THIS CERTIFICATION

The Commission relied upon a proposal by QWEST when it adopted its rule requiring a carrier's Chief Financial Officer to verify the accuracy of quarterly compensation payments.¹⁷ But as Sprint pointed out, QWEST's proposal only involved a responsible corporate officer, not

¹⁵ *Id.*, at 7.

¹⁶ AFTA Comments at 7.

¹⁷ *Data Reliability Order*, fn. 124.

the Chief Financial Officer. The same legal responsibility would apply in either case.¹⁸ QWEST confirms that its certification request applied only to a responsible corporate officer and agrees with Sprint that there is no legal difference between the liability that would be involved in its proposal and that of the Commission's.¹⁹ MCI also agrees.²⁰ And in fact, APCC has taken this position as well.²¹ The Commission should therefore adopt Sprint's request and allow a responsible corporate officer to verify the accuracy of a Completing Carrier's quarterly compensation payment.

IV. CONCLUSION

MCI urges the Commission to adopt the positions advocated herein.

Sincerely,

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¹⁸ Sprint Petition at 3.

¹⁹ QWEST Comments at 2.

²⁰ MCI Comments at 18.

²¹ APCC September 22, 2003 Ex Parte, CC Docket No. 96-128.

Statement of Verification

I have read the foregoing and, to the best of my knowledge, information and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct.

Executed on February 25, 2004

Larry Fenster

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CERTIFICATE OF SERVICE

I, L. Elizabeth Bryant, hereby certify that on this 25th day of February, 2004 copies of the foregoing were served by regular mail or email on the following:

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